

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on May 7th,
2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

May 7th, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN
CANDICE BAKER LEIT, ESQ.
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ
DENNIS MIETZ

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

DR. DAVID LAWRENCE

Reported by: CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

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2 MR. CHOLETTE: I would like to now call to
3 order the May session of the Brighton Zoning Board of
4 Appeals.

5 Rick, was the meeting properly advertised?

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Brighton Pittsford Post of May 1,
8 2014.

9 MR. CHOLETTE: Will you please call the roll?

10 MR. DiSTEFANO: Please let the record show
11 that Dr. Lawrence is not present.

12 MR. CHOLETTE: We have the minutes from the
13 April meeting.

14 Are there any additions or corrections?

15 (Mr. Goldman's name was absent from April's minutes.)

16 Can I have a motion to approve the minutes?

17 (Motion made by Ms. Schwartz to approve the
18 December amended minutes.)

19 (Seconded by Mr. Goldman.)

20 (Upon roll call, motion to approve with
21 corrections carries.)

22 MR. CHOLETTE: We will then go right into the
23 applications for tonight.

24 When you're ready, will you please call the
25 first one?

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2 5A-01-14 Application of The Valley of Rochester LLC,
3 owner of property located at 1534 Monroe Avenue, for
4 Area Variances from Section 205-18A to 1) allow for the
5 placement of additional pavement up to the western lot
6 line where a minimum 10 ft. setback is required by
7 code, and 2) allow parking within 4 +/- ft. of the
8 eastern lot line where a minimum 10 ft. setback is
9 required by code. All as described on application
10 and plans on file.

11 UNIDENTIFIED: How do you do?

12 I bought this property --

13 MR. DiSTEFANO: Just state your name and --

14 MR. LEYENS: My name is Adam Leyens. I'm the
15 sole member of The Valley of Rochester.

16 I bought this property and it has -- I got a
17 variance at the time that allowed -- the Board actually
18 gave me a variance because there was three or four
19 parking spaces behind the garage, and the Board gave me
20 a variance because the parking space couldn't be as
21 wide. The problem all along is that it really doesn't
22 work the way it is.

23 I have two problems. One, my neighbor --
24 people tend to park in my neighbor's lot because they
25 see the garage. And secondly, it's very hard to get

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2 around. It's unsafe. You can't see people coming.

3 So I've gotten a permit to demolish the
4 garage. I want to leave the pad - the pad to the
5 garage - because it's a nice concrete pad. But to the
6 left of the garage, if you go straight back, it's like
7 about this far(indicating) and it would have to be
8 paved. Behind the house is the existing pavement. I'm
9 not going to expand any of that area. And I want to
10 take the existing parking on the left side, which is to
11 thin, move it to the right side so that I have nine
12 spaces that are regulation size. And then it actually
13 puts the handicap spot and the handicap access way,
14 which is behind the garage, right next to my handicap
15 entrance. So it makes it so that the person coming out
16 of the car can actually walk right into the back
17 entrance.

18 And I drew a map and I have some pictures if
19 the Board wants them of the back?

20 But it would actually work really smoothly.
21 I have a fence there. It won't -- the neighbor won't
22 see the cars parked there. I've got flowers and I'm
23 not going to change -- I've actually put grass in and
24 I've got flowers. And I'm not going to expand the
25 parking lot any further back. I'm just -- the only

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2 areas that have to be paved are to the right of the
3 garage where people are running it over anyway. If you
4 look at the pictures it's like this wide(indicating)
5 and about twenty feet long where a garden was next to
6 the garage and on the left side, just to make it go
7 straight back. And all I'm going to do is repave the
8 front parking area over the same spot, since it's all
9 worn out and sunk.

10 But that's all I was really going to do. It
11 just makes a smoother plan and it hides cars so that
12 you don't see any cars from the street. And a lot of
13 people - a larger number of people -- and at the same
14 time it gets rid of the twistiness(phonetic) that
15 really makes it dangerous for people coming in and out.
16 They can't see and it's really hard. In fact, I've
17 been worried that the snow plow almost hit my building.
18 I kept saying if you want to hit the garage, go ahead
19 because I want to take it down.

20 But if you have any questions or you need
21 pictures of my backyard?

22 MR. CHOLETTE: Does anybody want the pictures
23 circulated around?

24 MR. DiSTEFANO: Do you want to see the
25 pictures?

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MS. BAKER LEIT: Yes, please.

MR. LEYENS: That -- thank you.

MS. BAKER LEIT: Just for the record, what is the name of the business that is the hair salon and have you spoken with the owner?

MR. LEYENS: The owner is here tonight. He's going to speak after me I believe.

MS. BAKER LEIT: Okay. Thank you.

MR. CHOLETTE: Any other questions?

MR. DiSTEFANO: On that same thought, have you talked to the owner on the other side, the residential property?

MR. LEYENS: Jeff doesn't care. He's a nice guy. He works on his tools. He lives in Florida. He promised he would paint the graffiti on his garage, which is behind my fence if anybody drove back there. He really didn't have an issue. He knows I'm trying -- I think -- honestly I don't know who lived there, but people didn't like the person that lived in the building before me. He had people graffiti his garage for that reason.

So I think he's pretty happy. I did talk to him about it and I told him what I'm doing. I assume he got the notice. He's there now. He's not in

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2 Florida. So he could have appeared.

3 MS. SCHWARTZ: I did talk to him. He was
4 working in his yard when I happened to go see it. And
5 I said, "You don't have any problems?" And he said,
6 "No." He said he thought the transfer would upgrade
7 the properties and he was appreciative.

8 MR. MIETZ: How about the slab there, are you
9 pretty sure it's at grade so it's not going to be --

10 MR. LEYENS: What it's going to do is it
11 needs to come up a little bit where that garden is
12 going to be covered. So it will be up a little bit.
13 I'm not going to repave any of the back parking area.
14 It's still in pretty good shape. It's just I'm going
15 to go from the sidewalk back and pave that because for
16 some reason the driveway sunk. I'm not going to expand
17 the width. And then I'm going to pave around the
18 garage so it's a little smoother transition around.

19 MR. MIETZ: Like when you do the strip on the
20 west side does it need to be tapered at all?

21 MR. LEYENS: It's going to be tapered, yes.
22 It has to be tapered.

23 MR. MIETZ: From the slab?

24 MR. LEYENS: It's like about that
25 high(indicating.) A little bigger.

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MR. MIETZ: Won't be a hazard. Okay.

MR. GOLDMAN: The width for -- for Rick, the width of these parking spaces is nine feet.

I thought it was ten?

MR. DiSTEFANO: Nine by eighteen is the required space, yes.

MR. LEYENS: I think that I have three parking spaces before granted that are eight feet. So this would actually put me in compliance.

MR. CHOLETTE: Now, on the east side of the property you're presently paved right up to that fence?

MR. LEYENS: No. There is a little grassy area.

MR. CHOLETTE: That will be eliminated?

MR. LEYENS: No.

MR. CHOLETTE: It will stay there?

MR. LEYENS: I took all the flowers from the house and put them along the fence and I planted grass. And I'm going to keep that, absolutely.

MR. CHOLETTE: Okay. And on the west side it will come up to the property?

MR. LEYENS: The west side, behind the garage is up to the property line, but where the garage and the front go --

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2 MR. CHOLETTE: Sure, you've got some space
3 there.

4 And that will be paved then?

5 MR. LEYENS: That's one of the -- both sides
6 of the garage are going to have a little bit of a thin
7 strip of paving. There will be no new area of those
8 two areas that are going to be paved.

9 MR. DiSTEFANO: It's about four feet from the
10 east side of the parking lot to that eastern property
11 line.

12 MR. CHOLETTE: Okay.

13 MR. DiSTEFANO: So that second part of the
14 variance is not additional pavement that's going there.
15 It's just the fact that you're taking the parking and
16 flipping the parking over.

17 MR. LEYENS: I'm going to move it from the
18 left to the right side.

19 MR. CHOLETTE: So the only additional paving
20 will be that little bit that will be east from where
21 the garage is presently standing?

22 MR. LEYENS: And on the right side where
23 there was a garden. If you look at the pictures,
24 there's a little garden.

25 MR. CHOLETTE: Do we have any other

1
2 questions?

3 Fine. Thank you very much.

4 MR. LEYENS: Thank you.

5 MR. CHOLETTE: Is there anyone in the
6 audience that would like to speak with regard to this
7 application?

8 There being none this -- yes?

9 MS. PARKER: Hi. I'm Alison Parker. I am a
10 neighbor and resident. I live at 35 Warrington Drive.

11 And the neighbors on Warrington don't
12 necessarily have an objection to it, but we would like
13 to know if it would be possible to make sure that the
14 fence that's on the back of the residential houses is
15 the highest possible fence, you know, that could be
16 built?

17 Because it does actually create a bad view to
18 have more cars. It's hard for us living at the border
19 of a residential and business neighborhood, you know,
20 to have the backs that aren't, you know, properly
21 fenced. And there are some parts - it's not just this
22 property, but the hair salon and others - where the
23 fences are down, you know, the fences aren't high
24 enough. So it seems like if somebody is asking for
25 something that goes beyond, you know, what was

1
2 originally granted, that all we would ask is that he
3 also make sure that the fences there, you know, are
4 adequate to deal with it.

5 That's what we were worried about. So I said
6 that I would --

7 MR. CHOLETTE: Now, you're referring to the
8 fence that is at the back of this property?

9 MS. PARKER: The fences that hit the
10 residential properties on the back. Because we live on
11 Warrington Drive, and Warrington hits Monroe at the
12 corner and there are residential houses there. So
13 that's the area

14 MR. MIETZ: So when you say the back it's
15 really the side, the east side I guess?

16 MR. DiSTEFANO: No. I think they're talking
17 about the little back here(indicating) where Warrington
18 comes around.

19 MS. PARKER: Yeah. Warrington it's at the
20 end --

21 MR. CHOLETTE: Is there currently a fence
22 there?

23 MS. PARKER: It's kind of not so good and
24 somewhat a dilapidated situation there.

25 MR. CHOLETTE: So it's not a six and a half

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foot high fence?

MR. MIETZ: No.

MR. CHOLETTE: So what you're asking is that
if --

MS. PARKER: If there's going to be --

MR. CHOLETTE: -- we might consider as a
condition --

MS. PARKER: Yeah.

MR. CHOLETTE: -- that he erect a fence as
high as possible?

MS. PARKER: Yeah. We would appreciate that.

MR. CHOLETTE: We will take that under
advisement.

MS. PARKER: Okay. Thank you.

MR. LEYENS: Can I respond to that?

MR. CHOLETTE: Well, we don't normally.
Unless you feel that the Board members have the wrong
idea about this?

MR. LEYENS: Well, I wouldn't -- just because
I'm landscaping.

I built the fence on the right side because
the Board asked me to. And I did a good job. And when
I got to the back I had two choices.

First of all, the fence that's there that's

1
2 delapidated is not mine. It's a tall, six-foot fence
3 and part of it is falling in. It's the person's behind
4 me. There are huge trees there and power lines and
5 it's --

6 When I did the digging for the fence on the
7 right to get down to the further forty-eight inches it
8 was a bear. I couldn't use a machine. I had to do it
9 by hand. And if I'm going to put a fence back there --
10 there are three fences there now. There's two wire
11 fences and then there's that neighbor's wood fence and
12 there's a big garage there.

13 MR. CHOLETTE: Right.

14 MR. LEYENS: Which is hiding them from it
15 anyway. So there's very little that shows.

16 I don't want to cut the big trees. They're
17 beautiful. And I just don't know what answer you want
18 to give. I've tried to landscape back there. I've put
19 in pines back there.

20 MR. CHOLETTE: So you're saying there would
21 be a problem --

22 MR. LEYENS: I mean, if you went back there
23 and looked, you'd see it. They're huge trees. I'd
24 kill the trees.

25 MR. CHOLETTE: I have this picture that

1
2 pretty well shows it.

3 MR. LEYENS: Yeah. And there's a garage back
4 there that hides most of my parking area.

5 MR. CHOLETTE: We see it. We see what you're
6 talking about.

7 Okay. Thank you for that.

8 MR. DiSTEFANO: Yeah, it's the same picture.

9 MR. CHOLETTE: Is there anyone else in the
10 audience that would like to speak with regard to this
11 application?

12 Yes, sir?

13 MR. Dell'Aiera: Hi. My name is Atillo
14 Dell'Aiera, 1530 Monroe Avenue.

15 MR. CHOLETTE: I'm sorry, can you spell the
16 last name?

17 MR. Dell'Aiera: Atillo Dell'Aiera,
18 D-e-l-l-'-A-i-e-r-a. 1530 Monroe Avenue, salon owner.

19 And I do not have any complaints about it.
20 He's been a great neighbor since the beginning. He's
21 improved the property. And I'm glad he's going to
22 remove the garage. He will have more room to just
23 park.

24 Since the beginning I mentioned it and
25 everybody kind of agreed upon that he had to move the

1
2 garage to a facility that everybody can see that
3 there's parking behind his house and his business.

4 So, I don't have much to say about it.

5 MR. CHOLETTE: Thank you for coming in.

6 MR. Dell'Aiera: You're welcome.

7 Is there anyone else that would like to speak
8 with regard to this application?

9 There being none this part of the public
10 hearing is closed.

11 5A-02-14 Application of John and Jane August, owners of
12 property located at 1151 Clover Street, for an Area
13 Variance from Section 209-10 to allow liveable floor
14 area to be 5,215 +/- sf, after construction of a 502
15 +/- sf heated porch addition, in lieu of the maximum
16 4,464 sf allowed by code. All as described on
17 application and plans on file.

18 MR. AUGUST: Thank you. My name is John
19 August. I live at 1151 Clover Street. We've lived
20 there for sixteen years. This is next to the Baptist
21 Temple at the corner of Clover and Monroe. My wife and
22 I have decided that we would like to stay in this house
23 for another fifteen years.

24 And I'm here tonight to request a variance to
25 add a patio enclosure covering most of the rear terrace

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2 that's attached to the house. It's at the rear of the
3 house. It's only really exposed to my neighbor to the
4 south, Dick and Joanne Fox. A patio enclosure would
5 not normally require or trigger the variance need.
6 However, I do plan to extend one heat run - heat system
7 - into that room so that we could get more use out of
8 it.

9 I commercially develop property in Brighton
10 and my wife owns a business at Twelve Corners. And I
11 hope I'm known as someone that follows the rules in
12 Brighton. So in good faith I couldn't represent this
13 as a three-season room, it does have heat. However, I
14 think the Board knows if it didn't have the heat run I
15 could build this without Planning or ZBA approval.

16 Because it's now considered a four-season
17 room with any heat source there I have to comply with
18 new law covering building coverage. I think it was
19 enacted five or six years ago. Laypeople know it as
20 the McMansion rule, I don't know what it's formally
21 called. But prior to this new law the variance would
22 not have been needed. My house as it was built in 1910
23 is over the regulations that are allowed by that code
24 and any new work would require a variance and created
25 -- put into a non-conforming preexisting use with the

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2 passage of the previous law.

3 The stretch of Clover Street is a little
4 unique from Highland down to Esplanade. It was
5 subdivided at the same time. Almost all the lots have
6 a hundred-foot frontage. They're very long, very deep.
7 Most of them around four hundred feet in depth. Most
8 of them have good size homes. There's no storm sewers.
9 There's a few other unique parts about that part of
10 Brighton. But I did some research and just included it
11 - the sampling of other homes in that stretch - and you
12 will see, I think, there's one home also on the other
13 end of Esplanade that's over the limit now. Many of
14 them are close. With an addition would kick them in a
15 similar position.

16 I believe that the law was created to protect
17 against aggressively subdivisions creating out of
18 character lot situations. I don't think the type of
19 development that I'm proposing was the intended target
20 of the law. And obviously I don't think it was
21 self-created in that I could have put this up without
22 Zoning approval prior to the new law going into affect.

23 The enclosure is not visible to anyone, but
24 my one neighbor. I don't think that anyone is injured
25 or affected by the granting of the variance that I'm

1
2 here tonight to respectively request. We grant -- the
3 granting of this small variance to allow the proposed
4 enclosure to go forward.

5 I will answer any questions about the
6 building or anything else relating to my situation.

7 MS. SCHWARTZ: Will there be any -- when I
8 was over there's a space below the windows or whatever
9 --

10 MR. AUGUST: I'm sorry, Judy?

11 MS. SCHWARTZ: There's a space below the
12 windows. There's a term for it and I can't --

13 MR. DiSTEFANO: An e-wall?

14 MS. SCHWARTZ: Yes, thank you.

15 MR. AUGUST: We would create an e-wall so it
16 looked like the existing building.

17 MS. SCHWARTZ: Right. So will that be the --

18 MR. AUGUST: It will be brick. I have
19 letterings. I don't know -- it will be done properly
20 to match the house. This is how it will
21 look(indicating) with the house in the background. So
22 we've planned the whole thing. It is a detailed strip
23 that will follow on the upper part.

24 MS. SCHWARTZ: Okay.

25 MR. AUGUST: And I apologize because I know a

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2 ZBA member came and knocked on the door. My wife was
3 rude and I apologize. I'm guessing it was one of you
4 three. I'm sorry.

5 MS. BAKER LEIT: It's okay.

6 MR. AUGUST: I wasn't expecting you.

7 MR. CHOLETTE: Any other questions?

8 Fine. Thank you very much.

9 MR. AUGUST: Thank you very much.

10 MR. CHOLETTE: Is there anyone in the
11 audience that would like to speak with regard to this
12 application?

13 There being none this part of the public
14 hearing is closed.

15 5A-03-014 Application of Rita's of Brighton, lessee,
16 and Neu Lac De Ville Plaza LLC, owner of property
17 located at 1900 South Clinton Avenue, for a Temporary
18 and Revocable Use Permit pursuant to Section 219-4 to
19 allow for a one day outdoor fund-raising event in
20 the parking lot of Tops Brighton Plaza. All as
21 described on application and plans on file.

22 MR. JAMES: Hi. My name is Todd James, owner
23 of Rita's Italian Ice.

24 And that pretty much sums it up. We're just
25 looking to have a fundraiser for Alex's Lemonade Stand

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2 to raise some money for pediatric cancer research.

3 I don't know if you all have the maps or not?

4 The event would be in the parking lot with
5 some sidewalk usage as well with some balloon artists,
6 face painting and things like that. We're looking to
7 put a rock wall or bounce houses in the parking lot.

8 You know, the biggest issue would be safety.
9 That's all of our issues or all of our main concern.
10 DiMarco first and foremost doesn't want anyone getting
11 hurt. Kids out and about is advertising and they don't
12 want anybody getting hurt. I have small children that
13 I don't want to get hurt. All of our children are
14 going to be there. The Brighton Daycare is promoting
15 it to three hundred families. They obviously don't
16 want any of their kids getting hurt. So our plans are
17 to fence off the area.

18 And that's about it.

19 MS. BAKER LEIT: Can you describe the fencing
20 that you will be using to coral the kids in the parking
21 lot area?

22 MR. JAMES: Part of it I was hoping to use a
23 fire truck to create an absolute wall and then - I
24 don't know if fencing is the right word.

25 MR. DiSTEFANO: The police gates or something

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like that?

MR. JAMES: Yeah, something. Not like a six foot chain-link fence that looks like the children are prisoners.

MS. BAKER LEIT: Right, but some kind of fence wrapped around?

MR. JAMES: Yeah, whether it's roped off or, I guess, worst case scenario like that orange rolled fencing.

I don't know exactly because without getting it approved I don't know how large of a space. If that was even it, if that was the option, or if we had to stick it to the sidewalks.

MS. SCHWARTZ: Can you tell me how you happened to choose this part of the parking lot?

MR. JAMES: It is dead.

MS. SCHWARTZ: Nobody parks there?

MR. JAMES: Nobody parks there. During - anytime that there's snow that's where it's piled. Right now the only people that are parking there are construction workers and they don't even use the spots. They crisscross or whatever because nobody parks there. They can take that section of the parking lot out and turn it into a flower bed and nobody would care.

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2 MS. SCHWARTZ: Do other Rita's have
3 fundraisers like this? Is this kind of the corporate
4 philosophy?

5 MR. JAMES: Every -- Alex's Lemonade Stand, I
6 will give you a quick rundown on that. Alex was born
7 with cancer at the age of four. She went into
8 remission. She wanted to have a lemonade stand because
9 she wanted to raise money for other kids with cancer.
10 Rita's was right up the road from her. They donated a
11 bunch of lemon ice, brought the mascot down, created a
12 big sensation. She raised a million dollars between
13 the ages of four and eight. She passed away. Since
14 then Rita's has been on board. Every single June we
15 sell paper lemons at every store across the country for
16 a dollar. So far we've raised seventy-five million
17 dollars.

18 MS. SCHWARTZ: You only do it for this? I
19 mean, you don't do fundraisers three or four times a
20 year?

21 MR. JAMES: No. I've never raised a penny
22 before in my life. I have a four year old. Alex was
23 four. Alex's mother spoke at our annual business
24 meeting and it struck a chord with me. And rather than
25 just selling paper lemons, there is a lot of money in

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2 this town and I would like to take it and give it to
3 Mrs. Scott.

4 MR. CHOLETTE: Will it be on that date, rain
5 or shine or anything?

6 MR. JAMES: Yes.

7 MR. CHOLETTE: So you don't need an alternate
8 date to fall back on?

9 MR. JAMES: No. We're flying her up.
10 Everything is planned for that. I mean, obviously, if
11 it's raining then you can't go on the bounce house or
12 the rock wall, but everything else along the sidewalks
13 has cover over it. Kids can get their face painted and
14 what not. And as of now this is the space in the
15 center(indicating) and the green is(indicating) those
16 are stores that are empty. Everyone in
17 yellow(indicating) is - wanted to participate. So
18 there is no tenants that are against it. DiMarco is
19 fully on board and it will also draw a fairly good
20 amount of business to the area.

21 MR. DiSTEFANO: You mentioned that you're
22 using the sidewalks also. As you're well aware,
23 there's a lot of construction going on with the
24 facelift of the plaza.

25 Do you know -- have you been in discussions

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2 with DiMarco about how far they're going to be down,
3 and is that going to interfere with what you're
4 planning to do?

5 MR. JAMES: They will be in the ballpark of
6 Lifespan.

7 MR. DiSTEFANO: So almost to the corner,
8 basically?

9 MR. JAMES: Yeah. And they're going to halt
10 construction on the day. They're all - provided it all
11 goes through - volunteering and taking part in it.
12 Pretty much John DiMarco told them to clean it up, make
13 it look like ghosts. So that should be all spotless
14 and taken care of.

15 And as far as the sidewalk, we're just
16 planning on building small little lemonade stands to
17 sell the paper lemons out of. Like, Nursefinders is
18 going to have popcorn. Every store is going to do
19 something different. It's not like there's going to be
20 big booths set up blocking the sidewalks. It would be
21 maybe a table where a kid can get their face painted,
22 here's a balloon animal, be on your way. Just small
23 stuff scattered throughout.

24 MS. BAKER LEIT: Just for the record, the
25 time that you will be having this event is from noon to

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2 7:00 p.m. on June 16th?

3 MR. JAMES: Yes.

4 MS. BAKER LEIT: Okay. And what setup and
5 breakdown time do you need? Like what amount of time
6 do you need on either side?

7 MR. JAMES: That would depend on what we're
8 able to - what access we're able to acquire. If
9 everything goes smooth, the rock wall goes up in twenty
10 minutes, the bounce house goes up in twenty - thirty
11 minutes. I figure an hour on either end just to have
12 some cushion.

13 MR. CHOLETTE: So you don't need the
14 preceding day or the subsequent day?

15 MR. JAMES: No.

16 MS. BAKER LEIT: Are you sure you just don't
17 want a provision?

18 MR. JAMES: I -- want a what?

19 MS. BAKER LEIT: To have a cushion just in
20 case?

21 MR. JAMES: I ran national events, the
22 largest mobile marketing event in North America for six
23 years. I know all about events, how to run them, how
24 to setup, how to teardown.

25 MS. BAKER LEIT: Okay. Just one day?

1
2 MR. JAMES: If anyone needs that much time
3 they should do something different.

4 MR. CHOLETTE: How is liability insurance
5 handled?

6 MR. JAMES: We have ours. DiMarco has
7 there's. Nobody has --

8 MR. CHOLETTE: And it will cover something
9 like this?

10 MR. JAMES: I will make sure that mine does.
11 And I would imagine -- I haven't spoken with DiMarco
12 about that specifically, but they obviously don't want
13 to lose millions of dollars in the case of something
14 unfortunate happens. So I imagine in order for me to
15 go forward they're going to be pretty strict on who has
16 what.

17 MR. CHOLETTE: Any other questions?

18 Thank you very much.

19 MR. JAMES: All right. Thank you.

20 MR. CHOLETTE: Is there anyone in the
21 audience that would like to speak with regard to this
22 application?

23 There being none this part of the public
24 hearing is closed.

25 5A-04-14 Application of Rhaukeem Connor, lessee, and

1
2 Lawrence Axelrod, owner of property located at 2858
3 West Henrietta Road, for a Sign Variance from Section
4 205-32B(2) to allow for 135.5 sf of business
5 identification signage (2 separate business signs) in
6 lieu of the maximum 93 sf allowed by code. All as
7 described on application and plans on file.

8 MR. CONNOR: Hello. My name is Rhaukeem
9 Connor. I'm here to apply for a variance to keep the
10 existing sign that I have up.

11 The sign was moved from -- well, I have seven
12 locations. It was moved from another location that was
13 in Fairport. The square footage is the same size as
14 the existing space that the sign is up for right now.

15 And that's pretty much what I'm here for.

16 MR. DiSTEFANO: Maybe just a little
17 background? Would that help people out a little bit?

18 MR. CHOLETTE: Yes.

19 MR. DiSTEFANO: I know it's a little
20 confusing. The application is a little confusing.

21 When Mr. Connor came in he opened up the Mega
22 Pawn Store and right next to it - which is basically
23 adjoined in between, but they have two separate
24 businesses for the most part. You've got a jewelry
25 store and the Mega Pawn Store. The jewelry store never

1
2 put a sign up. The jewelry store, and correct me if
3 I'm wrong, but the jewelry store kind of ceased to be
4 and that's where the Monster Video store went in -
5 Monster Game, whatever it is. And so when they put the
6 Mega Pawn sign up he used all of the square footage of
7 the two stores.

8 So now there is no additional square footage
9 for a second sign. The Monster Video sign went up and
10 that's the one he needs the variance. The Mega Pawn
11 sign is basically using the space where the Monster
12 Video/Game is.

13 Does that pretty much sum it up?

14 MR. CONNOR: No. They are separately
15 metered. So it's two -- it's one space, but it's two
16 businesses.

17 MR. DiSTEFANO: Right.

18 MR. CONNOR: And they are separated.

19 MR. DiSTEFANO: But you run both of the
20 businesses? I mean, you own both those businesses,
21 correct?

22 MR. CONNOR: Yes.

23 MR. DiSTEFANO: Okay.

24 MR. CHOLETTE: I noticed that when I was over
25 there that the entrance to the Monster Video Game

1
2 appeared to be a locked door at that time and I had to
3 go through the pawn shop to get into the business.

4 Is that going to continue that way or is that
5 exterior door going to be available?

6 MR. CONNOR: Well, there is two doors. My
7 office enters into both sides. So the extra door that
8 you seen is the door that leads straight out to the
9 back in case of a fire or anything. So I believe
10 that's the extra door that you seen.

11 MR. CHOLETTE: No, I'm talking about the
12 front door - the main door to the parking lot - that
13 faces West Henrietta Road or East Henrietta Road,
14 whichever it is.

15 MR. CONNOR: Yeah, it's two doors. One door
16 for each business, one for each side.

17 MR. CHOLETTE: Right. But when I was there
18 you couldn't enter through the one side. I think that
19 the --

20 MR. CONNOR: Oh, no, the businesses was
21 closed at that time. It didn't open up. You got there
22 a little too early.

23 MR. CHOLETTE: Okay.

24 MR. CONNOR: I believe somebody went home
25 early that day. And we had a sign up saying that the

1
2 other side was open.

3 MR. CHOLETTE: Are these two completely
4 independent businesses?

5 MR. CONNOR: Yes. Filed with the state I've
6 got two different businesses for each side.

7 MR. CHOLETTE: Okay.

8 Rick, to your point, if the pawn shop sign
9 were smaller would they be allowed the second sign?

10 Is it just the amount of square footage that
11 is consumed by that sign?

12 MR. DiSTEFANO: Yes, it's the -- and I don't
13 know exactly the numbers, how they play out, but it is
14 the combination of the two signs that puts them over
15 the allowable square footage for that joint space.

16 MR. CHOLETTE: Do we know how much over we're
17 talking about?

18 MR. DiSTEFANO: Yeah, what would be allowed -
19 what I said in the legal description here, they would
20 be allowed to have ninety-three square feet and they
21 want a hundred and thirty-five square feet. The
22 Monster Video Game square footage is forty-eight square
23 feet. So if you subtract that forty-eight from the
24 hundred and thirty-five you get just about exactly --

25 MR. MIETZ: Eighty-seven and a half --

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MR. DiSTEFANO: What for the --

MR. MIETZ: The Mega Pawn Store.

MR. DiSTEFANO: -- Mega Pawn Store?

It's eighty-seven and a half?

MR. MIETZ: Yeah.

MR. DiSTEFANO: So the Mega Pawn Store by itself is a little bit under the maximum square footage.

MR. MIETZ: Five feet.

MR. CHOLETTE: And that's based on the interior sign or the frontage?

MR. DiSTEFANO: That's the frontage of the north wall of the Monster Video to the south wall of the Mega Pawn. So it's that entire frontage of the two stores.

MR. CHOLETTE: Just so we get it in the record, in this whole plaza can somebody give an estimation of the number of signs that are there and what the conformance is of those signs?

MR. DiSTEFANO: I believe there's two Fastenal signs, there is an auto parts sign, the Mega Pawn sign. Four signs total without the Monster Video. Four signs total, I believe. They all meet code.

MR. CHOLETTE: You've got four that meet

1
2 code.

3 And we're putting in a fifth sign and
4 together with the pawn shop is just a little over by
5 what you said?

6 MR. DiSTEFANO: Right.

7 MR. CHOLETTE: Okay. I just wanted to
8 understand.

9 Right.

10 MR. CONNOR: I didn't know the pawn shop sign
11 was inclusive to the whole store frontage.

12 MR. DiSTEFANO: Yes.

13 MR. CONNOR: Okay. My sign company - you
14 know you know him - he takes care of all that. So I
15 was unaware of that.

16 MR. DiSTEFANO: Yeah, when that original sign
17 came in -- and I think that's why there was never a
18 sign that went up for the jewelry store, because you
19 didn't have a enough square footage that was left over.
20 Because we did have an application come into us, but it
21 never went anywhere and I think it's because you had
22 used so much for the Mega Pawn that you had no room for
23 the jewelry store.

24 MR. CONNOR: The jewelry store you confused -
25 that's the name of the company, Jewelry Box

1
2 Corporation. So it wasn't exactly a jewelry store.

3 MR. DiSTEFANO: Well, yeah. It was --

4 MR. CONNOR: That wasn't the name of the
5 company.

6 MR. DiSTEFANO: Yeah, whatever that facility
7 was.

8 MR. CONNOR: So I had to include I guess all
9 of that space. If I own it you have to get a diagram
10 of the total space that I was leasing.

11 MR. DiSTEFANO: Right. And the Mega Pawn
12 sign used up some of that space for the other store
13 front.

14 MR. CONNOR: Okay.

15 MR. CHOLETTE: I think we've got it.

16 Any other questions?

17 Fine. Thank you very much.

18 MR. CONNOR: Okay. Thanks.

19 MR. CHOLETTE: Is there anyone in the
20 audience that would like to speak with regard to this
21 application?

22 There being none this part of the application
23 is closed.

24 5A-05-14 Application of Chait Studios, architect, and
25 Boy Scouts of America - Seneca Waterways Council, owner

1
2 of property located at 2320 Brighton Henrietta Town
3 Line Road, for an Area Variance from Section 205-8 to
4 allow lot coverage to increase from 69.3% to 69.7%
5 where a maximum 65% is allowed by code. All as
6 described on application and plans on file.

7 MR. CHOLETTE: Perhaps we should do them all
8 at once, do you think?

9 MR. DiSTEFANO: No, because the other ones
10 are signage. So I would keep them separate.

11 Sorry.

12 MR. CHOLETTE: That's all right.

13 MR. CHAIT: Good evening. I'm Stew Chait
14 from Chait Studios, architect and agent for the Seneca
15 Waterways Council for the Boy Scouts of America. There
16 are also representatives from Seneca Waterways if there
17 are any questions. They're here in the third row.

18 Seneca Waterways is going to be moving into
19 2320 Brighton Henrietta Town Line Road, relocating from
20 East Avenue in the city. And they will be opening up
21 sometime in June.

22 And in the redevelopment of the building they
23 have relocated the main entrance of the building such
24 that it's over here(indicating) on the west side of the
25 building if this is Brighton Henrietta Town Line

1
2 Road(indicating.) That curved area represents about
3 five hundred and seventy square feet. It is currently
4 landscaped with several trees that are in very bad
5 states of repair and essentially should be replaced if
6 not taken down.

7 In the creation of the main entrance they
8 would like to create a memorial garden. And
9 essentially what we would be doing is installing bricks
10 that would be engraved with people's names that would
11 be making donations on behalf of certain individuals.
12 Included in your packet was a plan that shows the
13 garden itself. There will be a couple benches and in
14 the middle of the garden will be a statue that is up on
15 a pedestal.

16 Essentially the site itself at 2.92 acres is
17 below the current green space needed. We're are at
18 69.3 percent and this five hundred and seventy square
19 feet to going to push us 69.7 percent. I looked at
20 this as a different type of green space. The permeable
21 pavers are not going to be adding any water flow to the
22 area. With the benches and with the statue - which
23 will be lit up - it's still a landscaped area and it's
24 still a very attractive entrance to the building
25 itself. So while technically we may be reducing the

1
2 green space, I think we're still providing a very
3 attractive entrance to the building.

4 MR. CHOLETTE: Any questions on this?

5 I think we're all set with that.

6 MR. DiSTEFANO: If you could just real
7 quickly - this is going in front of the Planning Board
8 also for some site plan modification. So if you could
9 just so the Board is aware of everything that is going
10 to be happening --

11 MR. CHAIT: Sure.

12 MR. DiSTEFANO: -- just tell a quick rundown
13 of what you're also doing with the site?

14 MR. CHAIT: Okay. We just talked about the
15 memorial garden.

16 Out front in the grassy area facing out on
17 Brighton Henrietta Town Line Road we want to locate a
18 thirty foot high flag pole which will be lit at night
19 because the flag will be flying at all times. It will
20 be an LED floodlight that will be on the street side
21 facing back towards the building, so there wouldn't be
22 any glare towards the street.

23 We are also restriping the parking lot. The
24 lot as it was previously striped was oversized. So we
25 were under the required amount of the parking given

1
2 what this new occupancy would be, which essentially is
3 businesses. So to get the business occupancy to snuff
4 - to get the parking spaces up to snuff - we're
5 restriping everything on the west and south sides to
6 nine foot by eighteen foot to meet code.

7 But we still fall short of what the town code
8 would require if the additional ten thousand feet that
9 the Boy Scouts are not taking would be leased to an
10 office occupant. So if we take the entire building
11 occupancy at a business occupancy we would need a
12 hundred and eight spaces. Which means I would need to
13 provide an additional twenty on the east side. To do
14 that I need to change the drive on the east side to a
15 one-way drive which will allow me to put in nine by
16 nineteen parallel spaces to the quantity of twenty.

17 I reviewed this with the fire marshal. Our
18 radiuses for ingress and egress for firetrucks are
19 sufficient. We've gone through the work sheet to make
20 sure we've got our proper fire coverage. There is a
21 fire hydrant out by the road. There's a fire
22 department connection on the building itself and the
23 entire building itself is sprinklered.

24 So that's just to talk about the parking and
25 that's really all that's happening on the outside. The

1
2 memorial garden and the flagpole and additional parking
3 on the east side.

4 MR. CHOLETTE: So let me understand that.

5 So with the additional parking, then you
6 would have enough parking for the whole building?

7 MR. CHAIT: Under the business occupancy,
8 yes.

9 MR. CHOLETTE: Okay.

10 MS. SCHWARTZ: But your entryway to the
11 building is where the garden is?

12 MR. CHAIT: For the Boy Scouts it is. Any
13 future tenant it will be further down the walk as you
14 head north. But all the entrances are on the west
15 side, yes.

16 MS. SCHWARTZ: Okay. And how tall is the
17 flagpole again?

18 MR. CHAIT: The flagpole is thirty foot. The
19 building itself is twenty-two foot high. We want to
20 make sure that the flag itself is prominent.

21 MR. CHOLETTE: Any questions for the
22 applicant?

23 MR. GOLDMAN: But that's not before us?

24 MR. DiSTEFANO: No, but I wanted you to get a
25 whole understanding because it might help with future

1
2 applications later on tonight. So I just wanted to get
3 a whole understanding of what they're planning to do on
4 the entire sight, just not right in front there.

5 MR. CHOLETTE: Fair enough.

6 Okay. Thank you very much.

7 MR. CHAIT: Thank you.

8 MR. CHOLETTE: We will go to 5A-06.

9 MR. DiSTEFANO: Do you want to ask if anybody
10 wants to talk about --

11 MR. CHOLETTE: Is there anyone in the
12 audience that would like to speak in regard to this
13 application?

14 There being none this part of the public
15 hearing is closed.

16 5A-06-14 Application of Jack Sigrist, architect, and
17 James Cerone and Sharon Bidwell-Cerone, owners of
18 property located at 2980 East Avenue, for 1) an Area
19 Variance from Section 205-2 to allow a side setback to
20 be 11 ft. in lieu of the minimum 31.5 ft as required
21 by code, all for the purpose resubdivision approval;
22 and 2) an Area Variance from Section 207-16A(4) to
23 allow for two driveway access points in lieu of the
24 maximum one allowed by code. All as described on
25 application and plans on file.

1
2 MR. SIGRIST: Good evening. I'm Jack
3 Sigrist, the architect of the project. The Cerones are
4 here if you have any questions for them.

5 MR. CHOLETTE: Could you go into the hallway
6 if you need to talk or -- we need it more quiet.

7 UNIDENTIFIED: My apologies.

8 MR. SIGRIST: We're here to ask for two
9 variances. One of which should be very simple.

10 We have a house that is on a hundred-foot lot
11 on East Avenue and then we own the property right next
12 door, which is a hundred and ten feet wide as well. So
13 we have two hundred ten feet of frontage for the
14 property. We are planning on combining it if we get
15 the zoning variances. We are building an addition on
16 the west side of the property which requires us to
17 combine the two lots. So we could build it without
18 having to ask for a variance.

19 So the first one - the first variance for the
20 side setback is going to combine the two lots. We have
21 a hundred foot and a hundred and ten foot. It's two
22 hundred and ten foot. If you go to the fifteen percent
23 frontage of side lot for the frontage it means we will
24 be required to have thirty-one and a half feet.
25 Presently the house was built in the 60's, I guess. I

1
2 think I said the 70's. And it is eleven feet off the
3 property line, which I guess was legal then, but
4 because of the combination that will require a variance
5 because of the larger side setback.

6 So the second one is we are presently - again
7 the house is on a hundred foot wide lot. We have two
8 entrances on that lot. What we would like to do is
9 take the one lot - the one entrance on the western side
10 - and move it on to the new combined lot. So what we
11 will be doing is maintaining two curb cuts where one is
12 required. All we're going to be doing is pulling it
13 off to the west side and locating it there. It will be
14 about a hundred and ten feet away from the other - the
15 east side. So we feel it's going to be a better
16 situation for safety.

17 I have got something I will hand out to you.
18 Also there are several houses in the area that have two
19 curb cuts and the majority of them are on East Avenue
20 right across from where we are.

21 Yes?

22 MR. GOLDMAN: Is it your intent to close up
23 the existing one that you are not going to use?

24 MR. SIGRIST: Yes. That's why I'm -- yes.
25 Basically we're going to relocate this. We're going to

1
2 take the presently westerly one and move it further
3 west.

4 MR. GOLDMAN: Thank you.

5 MR. CHOLETTE: Will it have an impact on the
6 trees in the side yard?

7 MR. SIGRIST: No. I just looked at that.
8 There's a utility pole and we're going to be to the
9 east side of that when we come into the yard.

10 MS. SCHWARTZ: So no trees will have to come
11 down at all?

12 MR. SIGRIST: No, no trees will come down.
13 No, because we will have a route around. There's one
14 to the east of the driveway and there's one to the
15 west.

16 MR. CHOLETTE: And the widths of the
17 driveways will remain as they are now?

18 MR. SIGRIST: Yes. I believe they are
19 twenty feet, according to our survey plan.

20 So, again, here's the lot(indicating) we own.
21 We own this lot(indicating) as well. There's a house
22 that's here(indicating) in green. I think you have a
23 small representation of this. This is the addition
24 where we're going to put the entrance here(indicating).
25 This is the existing curb cut(indicating). This is the

1
2 other existing curb cut(indicating) which we're moving
3 over to the other lot. There's the tree
4 here(indicating) and a pole here(indicating). So we'll
5 clear both of them. We do have some that we'll need to
6 relocate for the driveway if we have to get around over
7 there. And here's our side setback(indicating) that is
8 legal here. Now it's much further in because of the
9 lot combination.

10 Anything else I can tell you?

11 MR. CHOLETTE: Anything else?

12 MR. DiSTEFANO: Just -- go ahead.

13 MS. SCHWARTZ: Are you going to remove that -
14 I assume the existing garage door, that will --

15 MR. SIGRIST: Yes, that will be on the
16 master.

17 MS. SCHWARTZ: Okay.

18 MR. DiSTEFANO: And on that you do show it on
19 the plot plan, but just for the record, that additional
20 pavement that goes to the existing garage would be
21 removed also?

22 MR. SIGRIST: Yes. So we're taking out
23 this(indicating) and we're taking out this(indicating).

24 MR. CHOLETTE: Anything else?

25 Fine. Thank you very much.

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MR. SIGRIST: Thank you.

MR. CHOLETTE: Is there anyone in the audience that would like to is speak with regard to this application?

There being none this part of the public hearing is closed.

5A-07-14 Application of Skylight Signs, Inc. contractor, and Boy Scouts of America - Seneca Waterways Council, owner of property located at 2320 Brighton Henrietta Town Line Road, for a Sign Variance from Section 207-32B(1) to allow for a business identification sign on a second building side (west) where not allowed by code. All as described on application and plans on file.

5A-08-14 Application of Skylight signs, Inc., contractor, and Boy Scouts of America - Seneca Waterways Council, owner of property located at 2320 Brighton Henrietta Town Line Road, for a Temporary and Revocable Use Permit pursuant to Section 219-4 to allow for the display of special event banners where not allowed by code. All as described on application and plans on file.

(Same applicant and same owner.)

MR. BONANNO: Hello, everybody. My name is

1
2 Mike Bonanno. I'm with Skylight Sign Company. We do
3 have representatives from Boy Scouts of America, Seneca
4 Waterways Council in the audience for any further
5 questions.

6 I believe I have to turn in some paperwork.

7 MR. DiSTEFANO: Thank you.

8 MR. BONANNO: This variance request is
9 basically to ask for a second sign on the west side of
10 the building. Basically we would have been allowed a
11 hundred and fifty square foot sign on the front of the
12 building that faces Brighton Henrietta Town Line Road.
13 But instead we're asking to have two signs, and both of
14 those signs would not even equal the hundred and fifty
15 square feet.

16 The sign on the front facing Brighton
17 Henrietta Town Line Road is going to be illuminated
18 with low voltage LED, very tastefully done. And the
19 sign of the parking lot side, on the west side of the
20 building - which really can't be seen that well - would
21 be non-illuminated and much smaller. Actually that
22 would only be a forty-four square foot sign. I believe
23 the two signs together is only a hundred and thirty-two
24 square feet.

25 And basically this is what we're asking.

1
2 MS. SCHWARTZ: Why do you feel that you need
3 the one in the parking area?

4 MR. BONANNO: Well, that's the main entrance.
5 And it's very easy to know when you're driving on the
6 road where the building is, but sometimes when you pull
7 in the parking lot you would like -- when they park -
8 this is the main entrance. We would like to have some
9 identification over the actual main entrance of the
10 building.

11 This is not visible from the road. So it's
12 really not deterring from the neighborhood. It's not
13 taking away from any visual aesthetics. As a matter of
14 fact, because if I may say so myself, it's very
15 tasteful and very beautiful.

16 MS. SCHWARTZ: Would you consider not
17 lettering necessarily? Would you consider just the
18 insignia rather than all the lettering?

19 MR. BONANNO: I don't believe so. The Boy
20 Scouts of America, Seneca Waterways Council have a very
21 distinct logo and identity that they need to maintain
22 as there branding.

23 MS. BAKER LEIT: Could you, for the record,
24 just describe the surrounding properties?

25 MR. BONANNO: It's all commercial businesses.

1
2 Across the street is ELO Touch Systems. They're doing
3 some work on that building as well. It's mainly
4 commercial buildings. There's really nothing that
5 would be a resident.

6 MR. CHOLETTE: Maybe if you describe the
7 property to the west of this, where this additional
8 sign would be for your main entrance and describe what
9 is directly on this?

10 MR. BONANNO: I guess I'm going to have to
11 defer to some of the professionals of this building.

12 MR. CHOLETTE: That would be fine.

13 MR. HOITT: Good evening. I'm Steve Hoitt,
14 the executive director for the Boy Scouts.

15 The property at Brighton Henrietta Town Line
16 Road, our neighbor to the - I guess that would be to
17 the west - is a Frontier Communications satellite
18 building. It sits close to the road. It's kind of a
19 walking site from the side of the building as you come,
20 depending on how you come to the building. Behind that
21 is open field. As you get to the parking lot David
22 Flown owns two buildings, one off of Metro Park and one
23 off of Brighton Henrietta Town Line Road with a joint
24 parking lot address from one to the other. So the side
25 of that building really faces across that open field

1
2 area into the connecting parking lot along, Mr. Flown's
3 two buildings.

4 MS. SCHWARTZ: Rick, I have a question.

5 When that portion gets a new tenant -- you
6 know what my question is going to be.

7 What about signage for them, and how is that
8 going to affect, let's say, the 23 Town Line sign?

9 MR. DiSTEFANO: Well, that's a good question
10 and I don't think that was thought about when the
11 signage for that location was thought about with this
12 application - from either the applicant or the staff -
13 to be honest with you.

14 I would probably say at that point that the
15 area that would be the new tenant it would be their
16 building face. This building space has got two faces.
17 It's got the face that faces the parking lot and it's
18 got the face that faces Town Line. The other two
19 sides, loading docks and the back of the building, if
20 that's what you want to call it. So I would probably
21 say that tenant would be permitted to put signage up in
22 their space, you know, how much signage they would be
23 allowed per code. So in essence the variance - whether
24 the variance is for the parking lot side or the Town
25 Line side, they would still have a variance for the

1
2 second sign and a second building face. So it wouldn't
3 hold true for any other tenant in there unless they
4 also wanted to apply for a variance.

5 MR. CHOLETTE: I'm sorry, I'm losing you. I
6 thought you were going to say that they would be
7 allowed without a variance.

8 MR. DiSTEFANO: Yes, they would be - the
9 second tenant would be allowed a sign on the parking
10 lot side without a variance. And the variance --

11 MR. CHOLETTE: And size of that sign would be
12 based on their frontage?

13 MR. DiSTEFANO: Their frontage, correct.

14 MR. CHOLETTE: And since we're not into the
15 same situation that we just were with the pawn shop,
16 you wouldn't be coming back and saying the Boy Scouts
17 already used up more than they're allotted?

18 MR. DiSTEFANO: Right.

19 MR. CHOLETTE: Because they are using up less
20 than they're allotted?

21 MR. DiSTEFANO: They're using up - probably.
22 Now, if you took the area from the Boy Scouts demising
23 wall to the front of the building, I'm sure that square
24 footage would be over - it would be hundred and fifty
25 square feet allowed. So whether you used the front of

1
2 the building or their parking lot side, their maximum
3 square footage is a hundred and fifty no matter what
4 way you cut it. So their saying we want them on both
5 sides using less than the hundred and fifty allowed,
6 while the back tenant would be constrained by whatever
7 their frontage would be. Which we don't know where
8 that demising wall would fall.

9 MS. SCHWARTZ: But they could ask for a
10 variance to have signage in front on Town Line?

11 MR. DiSTEFANO: They could. I don't know if
12 they would get it because they're not on Town Line.
13 Their actual --

14 MR. CHOLETTE: They could ask for anything.

15 MR. DiSTEFANO: That would be a second sign
16 on the Town Line Road side. I mean, they could ask for
17 it, but they would have to come back to this Board and
18 get it.

19 MS. SCHWARTZ: Right.

20 MR. DiSTEFANO: So I don't think the signage
21 for the second tenant is going to have any impact on
22 what we decide with this.

23 MS. SCHWARTZ: All right.

24 MR. CHOLETTE: Well, I think it might have an
25 impact. I think it might be actually helpful to the

1 applicants for this application. Because if you --

2 MR. DiSTEFANO: Negative impact.

3 How's that? Better?

4 MR. CHOLETTE: Yeah, no negative impact.

5 Because if we're saying they wouldn't even need a
6 variance to put up a sign on the back half of this
7 building if there's a new tenant in there, then you
8 might argue now we're sort of establishing this is
9 truly a face. If there's a sign on that entranceway it
10 would only make sense to have a sign over this
11 entranceway.
12

13 MR. DiSTEFANO: Right, exactly. And that's
14 the point I guess I'm saying, that if this building
15 came in with a couple of tenants, you know, all of the
16 entrances are from that parking lot side - from the
17 west face. I don't think there's any entrances off the
18 south space of the building - the Town Line Road.
19 Really that's where you can almost make the argument
20 that's where the variance comes into play is the sign
21 that's on the south side of the building. Because all
22 the entrances are on the west face.

23 MR. CHOLETTE: How did staff perceive this
24 when the application came in as to which sign actually
25 requires the variance?

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2 MR. DiSTEFANO: We didn't really because all
3 we said is you're asking for two different sides to
4 have a sign. And the interesting thing on how the code
5 reads is if you have a building on a corner lot then
6 it's where the main entrance is where the front of that
7 building is and that is where you should put the signs.
8 But this isn't a building on a corner lot. It's on a
9 building that just has its main entrances on the side
10 of the building. So they can almost pick and choose
11 which side they want to put the sign on.

12 MS. SCHWARTZ: But for identification
13 purposes that 2320 is quite visible and when you pull
14 in you see the Boy Scout sign. So technically you
15 don't need one on Town Line.

16 MR. DiSTEFANO: That's where you guys --
17 that's where their argument is that they do need one.

18 MR. CHOLETTE: I think we do understand what
19 they want.

20 MS. SCHWARTZ: Yeah.

21 MR. CHOLETTE: Let's not delay this.

22 Are there any other questions?

23 Fine. Thank you.

24 We do have more.

25 MR. DiSTEFANO: Sure we do. This is --

1
2 MR. CHOLETTE: Before we -- I'll just ask the
3 question before we go on to 5A-08.

4 With regard to 5A-07, is there anyone in the
5 audience that would like to speak with regard to that
6 application for the second of two signs for the Boy
7 Scouts of America?

8 There being none we will close that part of
9 the public hearing and move on to 5A-08.

10 MR. BONANNO: Hello. My name is Mike
11 Bonanno.

12 Do I have to go through all that again?

13 MR. CHOLETTE: No, go ahead.

14 MR. BONANNO: Again, I am representing as a
15 contractor for Boy Scouts of America, Seneca Waterways
16 Council. Again, representatives from said are in the
17 audience for your asking pleasures.

18 And this particular variance is requesting
19 temporary banners. And the banners - I believe you
20 should all have drawings of these banners. So it
21 really is relatively self explanatory. The banners are
22 going to be going on as grand opening banners. Very
23 temporary usage only. And they're only going to be on
24 the west side of the building that is truly invisible
25 to the road. And they're just there to help create a

1
2 sense of comradery through the organization that so
3 deserves it.

4 MR. CHOLETTE: Is that all they are?

5 I'm sorry, I read it and got the impression
6 that they were going to be either monthly banners or
7 seasonal banners or special events banners that ran
8 maybe all the time, just changing the banners from one
9 thing to another.

10 So could you clarify that?

11 MR. BONANNO: I can attempt to clarify that.

12 The original intent of this was simply as
13 banners that they would like to have for special
14 occasions. However, we realize that we wanted to go by
15 what the code talked about, and the code had mentioned
16 that a temporary banner could be there with a maximum
17 of two years. So with that mentioning of said clause
18 in the variance paperwork, we would like to continue
19 the use of these banners as not necessarily monthly,
20 but --

21 I guess I would like the people from the Boy
22 Scouts to speak to this a little more eloquently, if
23 you don't mind, sir?

24 MR. HOITT: As Michael said, our intention
25 was to do it for our grand opening as we move into the

1
2 building. With that we will be doing -- we plan to
3 occupy the building on June 1 and with that we will end
4 up with a dedication come September.

5 With that, as the code read, it was a two
6 year request for that we had the window.
7 Theoretically, if so granted we would be happy to use
8 them on other occasions as they come about on our
9 anniversary and things like that. But the big -- if
10 that doesn't work for you and if the request is just
11 for the grand opening period for the next four months
12 or whatever, that's fine too. Because our intention
13 was --

14 MR. CHOLETTE: I think what's important here
15 is for us to get an understanding of what it is that
16 you're actually requesting and what you would like and
17 we can scale it back.

18 So you're saying that your first priority is
19 to have some sort of grand opening banners which say
20 something. I don't know if it says --

21 MR. HOITT: Sure.

22 MR. CHOLETTE: -- grand opening or whatever.
23 And you would have those up from June to October or
24 something like that?

25 MR. HOITT: Exactly.

1
2 MR. CHOLETTE: And then if you could have
3 your way with all this, you would take those banners
4 down at some point and replace them with some other
5 banners that might be, I don't know, advertising camps
6 or jamborees or something?

7 MR. HOITT: Exactly.

8 MR. CHOLETTE: That would go up and you're
9 saying it would be nice if we could get this for two
10 years. I started reading between the lines, saying if
11 we gave you that and then you would be back two years
12 from now saying, "Gee, this is so great. We would like
13 these sort of on a continuing basis, but we'll still do
14 it under the temporary permit."

15 Is that correct, that's what you're --

16 MR. HOITT: Our intention was literally to do
17 it through the grand opening period. As we read, the
18 permit was a two year request window. So ideally if
19 that's the way that code works, we're happy to offer
20 that as a two year window. And we would do exactly
21 what you said then, we would come back and do things
22 for our anniversary month and camp and have banners
23 that would come and go. But ideally our main request
24 is to have something that can identify, you know, a
25 little comradery and excitement that happens as we move

1
2 from one headquarters to a new one.

3 MR. CHOLETTE: One thing I guess I would like
4 to point out is that the two years is a maximum. It's
5 not what you would consider atypical. Although, it
6 does seem like we grant variances for two years and the
7 usual intent in those is that these signs or displays
8 or whatever are not changing. It's for --

9 MR. HOITT: Sure.

10 MR. CHOLETTE: -- one kind of event.

11 But we understand what it is that you want.
12 We could wrestle with that ourselves.

13 MR. HOITT: Okay.

14 MR. CHOLETTE: Are there questions that you
15 would want to ask to further understand this?

16 MR. DiSTEFANO: Just for the record, the
17 number of poles that would be having banners?

18 MR. HOITT: There are six lampposts that
19 occupy the west side of the building.

20 MR. CHOLETTE: And these would be -- I think
21 you depict what the banners might look like?

22 MR. HOITT: Yeah, the color scheme will be a
23 little bit different than what you see there, but in
24 essence it will just be a lamppost banner like you
25 would see in a number of places around out county.

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MR. CHOLETTE: And they're not illuminated
and --

MR. HOITT: Correct. They're like --

MR. CHOLETTE: -- they're cloth material?

MR. HOITT: Actually, a weather vinyl is what
they make them out of now.

MR. CHOLETTE: Okay.

MR. HOITT: But they're just a temporary sign
that go on with a bracket. You see them in most
places. They're pretty popular now.

MS. SCHWARTZ: So the first duration would be
four months, you said?

MR. HOITT: Yeah. We're just looking for
something through October to get us through as we go
through that grand opening period.

MR. BONANNO: And I will just mention one
thing, if you don't mind?

Typically these banners you have actually
seen them at Twelve Corners. They're never really kept
up in the winter. We need to take them down because
the weather is too inclement. So you really don't have
that going on in the winter months. Just as a little
comment.

MR. CHOLETTE: And it would only be on this

1
2 west face? You wouldn't extend them around to the
3 facing Brighton Henrietta Town Line Road?

4 MR. BONANNO: That's correct. There is no
5 lampposts on the other three sides anyways. They're
6 only on the west side.

7 MR. CHOLETTE: Well, if you're hanging them
8 from the buildings --

9 MR. BONANNO: Oh, sure.

10 MR. CHOLETTE: -- there's lots of things you
11 could do.

12 But that's not what you're going --

13 MR. BONANNO: Yeah, they're only going on the
14 lampposts.

15 MR. CHOLETTE: Thank you.

16 Are there any other questions?

17 Fine. Thank you very much.

18 Is there anyone who would like to speak to
19 this variance?

20 There being none this part of public hearing
21 is closed.

22

23

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REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated

At Rochester, New York

Chad L. Smith

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on May 7th,
2014, COMMENCING AT APPROXIMATELY 7:15 P.M.

May 7th, 2014
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

JOHN CHOLETTE, CHAIRMAN
CANDICE BAKER LEIT, ESQ.
MORREY GOLDMAN
CHRISTINE CORRADO
JUDY SCHWARTZ
DENNIS MIETZ

DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:

DR. DAVID LAWRENCE

(The Board having considered the information presented
by the Applicant in each of the following cases and
having completed the required review pursuant to SEQRA,
the following decisions were made:)

Reported by: CHAD L. SMITH, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
21 Woodcrest Drive
Batavia, New York 14020

1
2 APPLICATION 5A-01-14

3 5A-01-14 Application of The Valley of Rochester
4 LLC, owner of property located at 1534
5 Monroe Avenue, for Area Variances from Section 205-18A
6 to 1) allow for the placement of additional pavement up
7 to the western lot line where a minimum 10 ft.
8 setback is required by code, and 2) allow parking
9 within 4 +/- ft. of the eastern lot line where a
10 minimum 10 ft. setback is required by code. All as
11 described on application and plans on file.

12 Motion made by Mr. Mietz to approve
13 Application 5A-01-14.

14 **FINDINGS OF FACT:**

- 15 1. While the requested variance on the west side is
16 substantial, the commercial nature of that side of the
17 property mitigates the affect of the encroachment on
18 any setback with the additional four feet of pavement.
- 19 2. The removal of the garage and the relocation of the
20 parking to the east side create a better traffic flow,
21 and no additional paving will be added. All spaces
22 will be brought to the 9 x 18 town code.
- 23 3. The east side parking allows for a handicap parking
24 spot more adjacent to the ramp constructed at the rear
25 of the building.

1
2 4. No negative effect on the character of the
3 neighborhood will result from this variance since the
4 residential side is blocked with a privacy fence.

5 **CONDITIONS:**

6 1. The garage, as described in testimony, will be
7 removed.

8 2. This variance only applies to the increase of
9 pavement as shown on plans submitted.

10 3. The parking will be only on the east side and
11 configured as described in the application and in
12 testimony.

13 (Seconded by Ms. Corrado.)

14 (Ms. Schwartz, yes; Mr. Goldman, yes; Mr.
15 Cholette, yes; Ms. Baker Leit, yes; Ms. Corrado, yes;
16 Mr. Mietz, yes.)

17 (Upon roll call, motion to approve with
18 conditions carries.)
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1
2 APPLICATION 5A-02-14

3 5A-02-14 Application of John and Jane August,
4 owners of property located at 1151 Clover Street, for
5 an Area Variance from Section 209-10 to allow liveable
6 floor area to be 5,215 +/- sf, after construction of a
7 502 +/- sf heated porch addition, in lieu of the
8 maximum 4,464 sf allowed by code. All as described on
9 application and plans on file.

10 Motion made by Ms. Schwartz to approve
11 Application 5A-02-14.

12 **FINDINGS OF FACT:**

13 1. Even though this variance will result in the second
14 largest house sited in the examples, it will not
15 increase the footprint of the existing house.

16 2. The applicant is enclosing a patio to create a five
17 hundred plus or minus square foot heated porch addition
18 to make a four-seasoned room. Therefore, the variance
19 is required because it will bring it over the allotted
20 square footage.

21 3. This porch is in the rear of the house and not
22 visible from the street.

23 4. There will be no undesirable change to the
24 character of the neighborhood.

25 5. The house is pre-existing nonconforming in terms of

1
2 the livable floor area requirement. Therefore, any
3 addition would require a variance.

4 **CONDITIONS:**

5 1. This variance only applies to the enclosed patio as
6 described in the application and in testimony
7 presented.

8 2. All necessary building permits shall be obtained.

9 (Seconded by Ms. Baker Leit.)

10 (Ms. Corrado, yes; Mr. Mietz, yes; Mr.
11 Cholette, yes; Mr. Goldman, yes; Ms. Baker Leit, yes;
12 Ms. Schwartz, yes.)

13 (Upon roll call, motion to approve with
14 conditions carries.)

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1 APPLICATION 5A-03-14

2 5A-03-014 Application of Rita's of Brighton, lessee,
3 and Neu Lac De Ville Plaza LLC, owner of property
4 located at 1900 South Clinton Avenue, for a Temporary
5 and Revocable Use Permit pursuant to Section 219-4 to
6 allow for a one day outdoor fund-raising event in
7 the parking lot of Tops Brighton Plaza. All as
8 described on application and plans on file.
9

10 Motion made by Ms. Baker Leit to approve
11 Application 5A-03-14.

12 **FINDINGS OF FACT:**

13 1. Rita's of Brighton seeks to hold a one day outdoor
14 fundraising event rain or shine in the parking lot of
15 Tops Brighton Plaza on June 16th, 2014 from noon until
16 7:00 p.m. This event will benefit the pediatric cancer
17 research charity named Alex's Lemonade Stand.

18 2. The requested one day permit is the minimum needed
19 to hold the event.

20 3. There will be no detriment to the surrounding
21 commercial properties. In fact, all tenants are
22 supportive of the event.

23 **CONDITIONS:**

24 1. Two perimeter safety barriers shall be installed
25 along the perimeter of the outdoor event area (parking

lot area) minimizing conflict between event goers and plaza traffic.

2. The applicant will confirm that construction will cease on the day of the event.

3. Benefit insurance will be obtained by the applicant for the day of the event.

4. Adequate sanitation will be provided for guests.

5. All garbage and refuse will be properly disposed of after the event.

6. The event shall be as described in the application submitted and testimony given.

(Seconded by Ms. Schwartz.)

(Mr. Cholette, yes; Mr. Goldman, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Ms. Baker Leit, yes.)

(Upon roll call, motion to approve with conditions carries.)

1
2 APPLICATION 5A-04-14

3 5A-04-14 Application of Rhaukeem Connor, lessee,
4 and Lawrence Axelrod, owner of property located at 2858
5 West Henrietta Road, for a Sign Variance from Section
6 205-32B(2) to allow for 135.5 sf of business
7 identification signage (2 separate business signs) in
8 lieu of the maximum 93 sf allowed by code. All as
9 described on application and plans on file.

10 Motion made by Ms. Corrado to approve
11 Application 5A-04-14.

12 **FINDINGS OF FACT:**

- 13 1. The sign is not out of character in relation to the
14 neighboring businesses on the same property.
15 2. The signs as they currently exist appropriately
16 identify the two businesses.
17 3. The signage is reused from a previously existing
18 business for use at this business making it
19 environmentally and economically sound.

20 **CONDITIONS:**

- 21 1. This variance applies only to the Mega Pawn and
22 Monster Video existing signs.
23 2. All necessary Architectural Review Board and
24 Planning Board approvals shall be obtained.

25 (Seconded by Ms. Baker Leit.)

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(Mr. Goldman, yes; Ms. Schwartz, yes; Mr. Cholette, yes; Mr. Mietz, yes; Ms. Baker Leit, yes; Ms. Corrado, yes.)

(Upon roll call, motion to approve with conditions carries.)

1
2 APPLICATION 5A-05-14

3 5A-05-14 Application of Chait Studios,
4 architect, and Boy Scouts of America - Seneca
5 Waterways Council, owner of property located at 2320
6 Brighton Henrietta Town Line Road, for an Area Variance
7 from Section 205-8 to allow lot coverage to increase
8 from 69.3% to 69.7% where a maximum 65% is allowed by
9 code. All as described on application and plans on
10 file.

11 Motion made by Mr. Cholette to approve
12 Application 5A-05-14.

13 **FINDINGS OF FACT:**

- 14 1. The area in question will be more than three
15 hundred feet from the road and not visible from it.
16 2. The increase in lot coverage will be less than one
17 percent and will be inconsequential.

18 **CONDITION:**

- 19 1. The addition to the lot which increases the lot
20 coverage will be as described in the application and in
21 testimony.

22 (Seconded by Mr. Goldman.)

23 (Ms. Schwartz, yes; Ms. Baker Leit, yes; Mr.
24 Mietz, yes; Ms. Corrado, yes; Mr. Goldman, yes; Mr.
25 Cholette, yes.)

(Upon roll call, motion to approve with
condition carries.)

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1
2 APPLICATION 5A-06-14

3 5A-06-14 Application of Jack Sigrist, architect, and
4 James Cerone and Sharon Bidwell-Cerone, owners of
5 property located at 2980 East Avenue, for 1) an Area
6 Variance from Section 205-2 to allow a side setback to
7 be 11 ft. in lieu of the minimum 31.5 ft as required
8 by code, all for the purpose resubdivision approval;
9 and 2) an Area Variance from Section 207-16A(4) to
10 allow for two driveway access points in lieu of the
11 maximum one allowed by code. All as described on
12 application and plans on file.

13 Motion made by Mr. Goldman to approve Part 1
14 of Application 5A-06-14.

15 **FINDINGS OF FACT:**

16 1. The requested variance for an eleven foot side
17 setback is the result of combining two lots into one at
18 2980 East Avenue.

19 2. There will be no negative impact on the surrounding
20 properties.

21 **CONDITIONS:**

22 1. This variance only applies to the eleven foot
23 setback.

24 2. This variance only applies if the properties are
25 re-subdivided into one.

1
2 3. All other necessary Town approvals shall be
3 obtained.

4 (Seconded by Mr. Mietz.)

5 (Ms. Corrado, yes; Ms. Baker Leit, yes; Mr.
6 Cholette, yes; Ms. Schwartz, yes; Mr. Mietz, yes; Mr.
7 Goldman, yes.)

8 (Upon roll call, motion to approve Part 1 with
9 conditions carries.)

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Motion made by Mr. Goldman to approve Part 2 of Application 5A-06-14.

FINDINGS OF FACT:

1. The second curb cut is for the proposed movement of the garage to the new addition, while keeping the existing turnaround.

2. The second curb cut helps to alleviate any possible safety issue of backing out onto East Avenue.

3. They currently have two curb cuts and this is not an additional change in that sense.

4. Since this applies only if they re-subdivide that means there is not a curb cut for the second parcel, which ordinarily would have a curb cut, and so there would be allowed normally a second curb for that parcel. There are no additional curb cuts for East Avenue than what would be allowed for two parcels.

CONDITIONS:

1. The most western existing curb cut shall be closed.

2. This variance only applies in the event that the two parcels are re-subdivided into a single parcel.

3. As per application and testimony, parts of the existing driveway as shown on plans submitted that are no longer necessary will be filled in and vegetation will be restored.

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4. All necessary approvals and permits from the Town of Brighton shall be obtained.

(Seconded by Ms. Baker Leit.)

(Mr. Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Mr. Cholette, yes; Ms. baker Leit, yes; Mr. Goldman, yes.)

(Upon roll call, motion to approve Part 2 with conditions carries.)

1 APPLICATION 5A-07-14

2 5A-07-14 Application of Skylight Signs, Inc.,
3 contractor, and Boy Scouts of America - Seneca
4 Waterways Council, owner of property located at 2320
5 Brighton Henrietta Town Line Road, for a Sign Variance
6 from Section 207-32B(1) to allow for a business
7 identification sign on a second building side (west)
8 where not allowed by code. All as described on
9 application and plans on file.
10

11 Motion made by Mr. Cholette to approve
12 Application 5A-07-14.

13 **FINDINGS OF FACT:**

14 1. The second building sign on the west side of the
15 building is a relatively minor variance in the fact
16 that the sign will not be illuminated, it will be
17 smaller in size and will not be visible from the
18 street.

19 2. The total square footage of the two signs is less
20 than which we would allow for a single sign.

21 3. The argument that they need a sign on the front of
22 the building toward Brighton Henrietta Town Line Road
23 for people to locate the building, and a second sign on
24 the west side of the building where their main entrance
25 is, is persuasive to the Board.

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CONDITIONS:

1. This variance applies only to the placement and the size and type of signage for both signs indicated in the application and testimony.

2. The western sign will not be illuminated.

3. All necessary Architectural Review Board and Planning Board approvals shall be obtained.

(Seconded by Mr. Mietz.)

(Mr. Goldman, yes; Ms. Schwartz, no; Ms. Baker Leit, yes; Ms. Corrado, yes; Mr. Mietz, yes; Mr, Cholette, yes.)

(Upon roll call, motion to approve with conditions carries.)

1
2 APPLICATION 5A-08-14

3 5A-08-14 Application of Skylight signs, Inc.,
4 contractor, and Boy Scouts of America - Seneca
5 Waterways Council, owner of property located at 2320
6 Brighton Henrietta Town Line Road, for a Temporary and
7 Revocable Use Permit pursuant to Section 219-4 to allow
8 for the display of special event banners where not
9 allowed by code. All as described on application and
10 plans on file.

11 Motion made by Mr. Mietz to approve
12 Application 5A-08-14.

13 **FINDINGS OF FACT:**

14 1. We approve the temporary and revocable use permit
15 based on the finding that there is a need for banners
16 to indicate the grand opening and relocation of the Boy
17 Scouts of America.

18 **CONDITIONS:**

19 1. This temporary and revocable use permit shall be
20 valid for a period from June 1st through October 31st.
21 2. The total number of banners shall not exceed six
22 and shall be as depicted in the application and in
23 testimony.

24 (Seconded by Mr. Goldman.)

25 (Ms. Schwartz, yes; Mr. Cholette, yes; Ms.

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Baker Leit, yes; Ms. Corrado, yes; Mr. Goldman, yes;
Mr. Mietz, yes.)

(Upon roll call, motion to approve with
conditions carries.)

REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated

At Rochester, New York

Chad L. Smith

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